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Convention on the Elimination of All Forms of Discrimination against Women

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Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women

List of issues and questions in relation to the combined fourth and fifth periodic reports of Vanuatu

Constitutional, legislative and institutional framework

1. It is indicated in the State party's common core document (HRI/CORE/VUT/2014) that article 5 of the Constitution provides for the fundamental rights and freedoms of an individual, without discrimination on the grounds of race, place of origin, religious or traditional beliefs, political opinions, language or sex (para. 114). The State party has acknowledged, however, that that article does not contain a definition of discrimination against women that encompasses both direct and indirect discrimination in line with article 1 of the Convention. Moreover, the Committee notes that the principle of equality between women and men is not enshrined in the constitutional or legislative framework. Please indicate whether the State party has taken or plans to take steps to amend the Constitution and other relevant legislation to incorporate the principle of equality between women and men and to define and prohibit all forms of discrimination against women, including direct, indirect, de jure and substantive discrimination, in line with article 1 of the Convention.

2. According to information received by the Committee, the Department of Women's Affairs introduced a draft gender equality policy that identified the legislative changes needed in order to remove all forms of discrimination against women and to promote gender equality, notably in the Matrimonial Causes Act, the Citizenship Act, the Employment Act and in common law, regarding property rights. Under the proposed changes, special consideration would be given to the most vulnerable groups, including women with disabilities, female heads of household and victims of all forms of violence, including sexual abuse and exploitation. Please

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indicate what measures have been taken to adopt and implement the policy, and provide information on the human, technical and financial resources allocated to the Department for that purpose. Please indicate whether a time frame has been set for making the legislative amendments stipulated in the policy, and provide information on any steps taken to harmonize customary law with statutory law and ensure that it is in line with the provisions of the Convention.

Access to justice

3. It is indicated in the report (CEDAW/C/VUT/4-5) that the Declaration of Approval of Constitutional Procedures Rules Order No. 26 of 2003 enables all citizens, regardless of sex, to apply to the courts for redress if their constitutional rights are breached (para. 60).[1] Given that women reportedly have limited information about their rights, lack support in pursuing them, are charged high legal costs and experience geographic isolation, please provide information on measures taken to remove all structural barriers to women's access to justice, in line with the Committee's general recommendation No. 33 on the subject. In the light of the Committee's previous concluding observations (CEDAW/C/VUT/CO/3, para. 38), please provide information on measures taken to increase legal assistance for women in the State party, on decisions issued by the judiciary in cases of violation of women's rights and on measures taken to ensure reparation, including adequate compensation, for victims.

National machinery for the advancement of women

4. It is stated that the budget allocated to the Department of Women's Affairs is insufficient to implement its programme of activities and that its staff lack the capacity to implement activities to promote gender equality and the gender mainstreaming strategy (para. 19). Please provide updated information on steps taken to strengthen the Department by providing it with the authority and visibility necessary, as well as sufficient human, technical and financial resources, to coordinate and work effectively for the promotion of gender equality and gender mainstreaming in all policies and programmes across all sectors and levels of government.

Temporary special measures

5. It is indicated that no specific temporary special measures have been adopted in education, employment or women's participation in political and public decision-making (paras. 20, 28 and 30). In the light of the Committee's previous concluding observations (CEDAW/C/VUT/CO/3, paras. 20-21), please provide information on the steps taken to promote the adoption of temporary special measures in order to accelerate the realization of women's substantive equality with men, in line with article 4 (1) of the Convention and the Committee's general recommendation No. 25 on the subject.

Stereotypes and cultural practices

6. It is stated that a national law and justice summit was conducted and attended by employees and staff of government agencies under the auspices of the Ministry

[1] Unless otherwise indicated, paragraph numbers refer to the combined fourth and fifth periodic reports of the State party.

of Justice and Community Services, as part of its efforts to review existing traditional systems of governance, and that a discussion paper was drafted and a steering group appointed (para. 22). Please provide information on the content of the paper, its current status and any specific steps taken, including through existing mechanisms, to eliminate patriarchal attitudes and discriminatory stereotypes that impede women's full enjoyment of their rights, in line with articles 2 (f) and 5 (a) of the Convention.

Violence against women

7. It is indicated that the Government has taken steps to eliminate discrimination against women by amending or adopting several laws, one of which is the Family Protection Act, adopted in 2008 (para. 68). The Act contains a definition of domestic violence offences and provides for the issuance of family protection orders in cases of domestic violence (para. 74). However, violence against women is not a specific criminal offence under the Penal Code (para. 25). Furthermore, the Act is not comprehensive because it does not include economic violence as the deprivation or threatened deprivation of economic or financial resources to which a person is entitled by law, and the Committee was informed that it does not provide for penalties for the offences that it covers. In addition, the Act is not yet being implemented throughout the islands of Vanuatu (para. 27) and the Government has yet to appoint the authorized persons and registered counsellors provided for in it. Please indicate whether the State party has taken or plans to take steps to amend the Penal Code in order to criminalize violence against women, sexual violence, marital rape and sexual harassment as specific criminal offences. Please also provide information on the implementation of the Act throughout the islands of Vanuatu, in particular in rural areas and on the outer islands, and indicate whether the State party plans to appoint the authorized persons and registered counsellors provided for in the Act, and the time frame for their appointment.

8. According to information received by the Committee, magistrates generally regard one of the stated aims of the Family Protection Act — to preserve and promote harmonious family relationships — as paramount, interpreting it as requiring them to attempt to reconcile victims and perpetrators of family violence as part of the process of conducting protection order hearings. Reports indicate that only some cases of violence against women make it through the justice system and that sentences for offenders are often low, with most perpetrators receiving fewer than six years' imprisonment, regardless of the severity of the offence. The adoption of the Act notwithstanding, a study on women's lives and family relationships conducted by the Vanuatu Women's Centre and the Vanuatu National Statistics Office found that, during their lifetime, 60 per cent of women were subject to acts of physical or sexual violence committed by their husband or partner. Please provide information on existing mechanisms to monitor the implementation of the Act and its effectiveness, including steps taken to ensure that cases of violence against women are duly reported to the competent authorities. Please also provide information on measures being taken to improve women's access to justice, legal aid and effective means of redress and protection, including access to shelters in rural areas and on remote islands, and to psychosocial support and health care for victims of violence.

Trafficking and exploitation of prostitution

9. The State party acknowledges the lack of legislation or proposed legislation to prohibit trafficking in women and exploitation of prostitution (para. 94). Please indicate whether there are any plans to adopt comprehensive legislation prohibiting trafficking in human beings, in particular women and girls, and whether steps are being taken to develop a comprehensive strategy to prevent and combat trafficking and related crimes, including forced prostitution, child prostitution and sex tourism. Please provide information on any measures being taken to identify victims of trafficking, protect them and provide them with rehabilitation and reintegration services. Please indicate whether any cooperation and information-exchange mechanisms have been established with neighbouring countries for data collection and analysis, protection-sensitive entry systems, reception arrangements, referrals and long-term solutions.

Participation in political and public life

10. According to information received by the Committee, the State party achieved a milestone in 2013 in terms of women's participation in public life when it amended the Municipalities Act to provide that 30 per cent of seats on municipal councils would be reserved for women. The Committee notes, however, that women occupy just 3 per cent of all senior/executive government positions and that the traditional customary structures present in all communities are led by men. The State party acknowledges that leaders lack the political will, and cannot be convinced that temporary special measures are required, to increase the number of women in elected and appointed office (para. 30). Please provide information on the steps taken to increase that number and to achieve the equal representation of women in political and public life, including through the adoption of temporary special measures, in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25 on the subject. In particular, please provide updated information on steps being taken to increase women's representation in Parliament, including through the adoption of legislation to make the 30 per cent quota for women in parliamentary elections a requirement for all political parties, and to support women who stand for election by developing targeted training and mentoring programmes on leadership and negotiation skills. Please indicate whether any steps have been taken to raise awareness among government officials, politicians, parliamentarians and women's and human rights organizations on the importance of temporary special measures in promoting substantive equality between women and men.

Nationality and citizenship

11. In its previous concluding observations (CEDAW/C/VUT/CO/3, para. 28), the Committee expressed concern that, under the Citizenship Act, a man married to a ni-Vanuatu woman was not entitled to citizenship, unlike a woman married to a ni-Vanuatu man, and that a man who applied for citizenship after 10 years of residence could include his wife and children in his application, whereas a woman could not. While it is indicated that there has been no amendment or proposed amendment to the Act during the reporting period (para. 145), the Vanuatu Law Commission has been asked to examine the discriminatory provisions of the Act and propose amendments thereto. Please indicate whether a time frame has been established for the amendment of the Act in order to bring it into full compliance

with article 9 of the Convention, and whether a ni-Vanuatu woman can now transmit her nationality to her child on the same basis as a ni-Vanuatu man.

Education

12. According to information received by the Committee, gender parity in primary and secondary education has been achieved and much progress has been made in tertiary education, but attendance remains higher for boys in almost all provinces. Please provide updated data on the percentage of girls and women in the capital, rural areas and on the outer islands who are enrolled in primary, secondary and tertiary education and on the courses that they pursue. Please also provide information on measures taken to reduce the dropout rate of girls from primary and secondary school and on the reasons why they drop out. It is indicated that the family life education syllabus has been drafted to deliver age-appropriate information and education on sexual and reproductive health in schools (para. 86). Please provide information on the time frames for the introduction of that syllabus in the school curriculum and the integration of the National Gender and Education Policy into the national education road map, and on progress made in mainstreaming gender in the curriculum (paras. 40 and 113). Given the State party's acknowledgment that fewer women than men apply for tertiary education scholarships (para. 115), please provide information on the reasons why and on measures that the State party has taken or plans to take to encourage women to apply for tertiary education scholarships.

Employment

13. It is stated that substantial progress has not been made in ensuring equal opportunities for women in the labour market owing to a lack of resources (para. 44). According to information received by the Committee, men continue to dominate the formal employment sector, with most women relegated to informal work, subsistence and homemaker activities. Vanuatu is at the bottom of world rankings on the implementation and enforcement of legislation on equal pay for equal work and non-discrimination. Please provide information on the priorities established in public policies to increase employment opportunities for women, and indicate whether measures are in place to ensure that the restrictions on women's employment in the 2012 employment relations bill are limited to maternity protection and to ensure that the existing provisions will be amended so as to allow women to access employment on an equal footing with men. The Committee notes that the Vanuatu Tripartite Labour Advisory Council is finalizing an updated employment relations bill that will recognize an enforceable right to equal pay for work of equal value. Please provide information on the content of the bill and indicate whether a time frame has been established for its adoption.

14. In the light of the Committee's previous concluding observations (CEDAW/C/VUT/CO/3, para. 33), please clarify whether the State party intends to take steps to amend its existing legislation or to adopt a new law in order to criminalize sexual harassment, which is currently considered an act of serious misconduct under section 50 of the Employment Act. Please indicate whether the State party plans to establish complaint mechanisms in that regard.

Health

15. According to information received by the Committee, women, especially those in rural areas and on remote islands, experience significant difficulty in gaining access to medical services, including basic services for victims of gender-based violence. There are very few formal medical services in place in Vanuatu and those that do exist do not extend provision to the outer islands. Moreover, there are no protocols in place for a systematic forensic response to rape, rape/post-exposure prophylaxis kits are not available in hospitals or health clinics outside Port Vila and most health-care staff are not trained or do not have the appropriate resources to recognize and respond to physical or sexual violence. Please provide data disaggregated by sex, age and other status on access to health services, including services relating to family planning and mental health, especially for rural women. Please also provide information on any measures that the State party has taken or plans to take to extend the geographic coverage of existing basic sexual and reproductive health-care services, including services specific to the needs of victims of sexual violence, in particular to rural areas, and indicate whether the State party plans to support the implementation of standard services for victims of sexual violence.

16. It is indicated that the Public Health Unit of the Ministry of Health has developed a reproductive health policy and strategy that focuses on reproductive health programmes (para. 121). Please provide additional information on the content of the policy and strategy, the allocation of human and financial resources for their implementation and the expected outcomes.

Rural women

17. It is indicated that, while proposed amendments to the national land laws have been made and the Land Tribunal Act has already been developed, there are no data to show the impact that land reform activities have had on women's rights (para. 142). According to information received by the Committee, access to land and land usage continue to be determined by men, and women, in particular those from remote islands, continue to face significant formal and informal barriers in gaining access to and benefiting from land tenure. In addition, rural women's needs and rights in relation to land are not upheld effectively, either in terms of formal land ownership systems or informal mechanisms for the allocation of land and settlement of disputes over land. Please indicate the time frame established for the adoption of the proposed amendments to the national land legislation, and clarify what measures the State party is taking or plans to take to increase access to and control over land and land usage for rural women and women living on the outer islands.

18. It is indicated that, while a land tribunal has been established to deal with issues concerning customary land ownership, it lacks the financial and human resources necessary to raise awareness of the legislative reform required (paras. 61-62). Please provide information on measures taken to implement targeted awareness-raising to ensure that customary or "island" courts are familiar with the concepts of equality and non-discrimination enshrined in the Convention, so that their rulings do not discriminate against women, especially with regard to land ownership and inheritance. Please indicate what steps have been taken to ensure that decisions of customary courts can be subject to appeal in the formal legal system.

Disadvantaged groups of women

19. According to the 2009 population census, women experience a higher rate of mild and moderate disabilities than men, vision and mobility being the two most

prevalent impairments. It is indicated that women with disabilities constitute one of the strategic areas of the National Disability Policy and Plan of Action 2008-2015 (para. 77). Please provide further information on the implementation of the policy and the plan and on their impact on women and girls with disabilities. Please indicate whether any steps have been taken to adopt legislation to ensure that women with disabilities enjoy all human rights and fundamental freedoms on an equal basis with other women, and to include women with disabilities in all government policies and programming, including sectoral policies on employment, education and disaster risk management.

Natural disasters, impacts of climate change and internally displaced persons

20. According to information received by the Committee, widespread damage was inflicted on the country's infrastructure and agricultural base, several people lost their lives and families and villages were displaced as a result of Cyclone Pam, which struck the country from 12 to 14 March 2015. Disaster recovery was reportedly slowest on the outer islands, where sociocultural barriers are strongest, thus exacerbating women's already limited access to services. Safety and security issues emerged as a constant concern in almost all the locations affected by the cyclone, especially with regard to access to essential services, such as water, sanitation and hygiene facilities, bathing areas and distribution points. Please provide information on the ways in which natural disasters affect women in the State party and indicate whether a gender perspective has been incorporated into the draft Vanuatu climate change and disaster risk reduction policy. Please indicate whether disaster management and mitigation plans have been developed to respond to the potential cases of displacement and/or statelessness arising in the aftermath of the cyclone and whether women, including those living on the outer islands, are included and can actively participate in planning and decision-making processes concerning the adoption of those plans.

Marriage and family relations

21. It is stated that there is a lack of legislation providing for equal rights for both spouses in ownership, management, administration and disposition of property (para. 148). Moreover, it is acknowledged that amendments have not been made to the Control of Marriage Act to increase the minimum age for marriage from 16 to 18 for women, or to the Matrimonial Causes Act and the Maintenance of Family Act with regard to child custody (paras. 146 and 147). At the time of preparation of the report, however, the Vanuatu Law Commission was reviewing discriminatory laws in order to propose amendments thereto as part of its programme of comprehensive family law reform (para. 146). Please provide detailed information on the status of the review process and time frames for the adoption of the amended family law provisions, as well as on the extent to which women have been involved in the consultation process. Please indicate what steps have been taken to adopt legislation that ensures that spouses have the same rights and responsibilities both during marriage and in the event of its dissolution. Please also inform the Committee about the measures taken to amend the provisions of the Control of Marriage Act regarding the minimum age for marriage for women, and the time frame planned for the implementation of that amendment in order to bring the Act into line with article 16 of the Convention and the Committee's general recommendation No. 21 on equality in marriage and family relations.